

Appln. No. 09/449,215

**REMARKS**

Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

In Section 3 of the Office Action, the Examiner rejected Claims 1-3, 6-7, 11-14 and 17-22 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Wood (U.S. Patent No. 5,715,823), and Alvarez (U.S. Patent No. 6,370,413), further in view of Hossack et al., (U.S. Patent No. 6,511,426). The Examiner bases all of his rejections on the combination of Wood and Alvarez, with some rejections including the combination of Wood, Alvarez and Hossack et al.

In Section 4 of the Office Action, the Examiner rejected Claims 23 and 26-32 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Wood and Alvarez.

In response to the Examiner's rejections, Applicants have attached hereto a Declaration of Prior Invention under 37 C.F.R. § 1.131 that establishes invention of the subject matter of the rejected claims prior to the effective date of the Alvarez reference. The 37 C.F.R. § 1.131 Declaration establishes conception of the invention of the rejected claims prior to August 30, 1999. This conception date, which is not provided as the absolute earliest conception date, is however, prior to the filing date of the Alvarez application which is November 2, 1999. Accordingly, in view of the Declaration of Prior Invention and associated Exhibits A-C, Alvarez is not prior art under 35 U.S.C. § 102(e) and thus may not be applied in the obviousness rejection under § 103(a) as the Examiner has provided. Accordingly, Applicants respectfully request that the Examiner withdraw the rejection of Claims 1-3, 6, 7, 11-14, 17-23, and 26-32 under 35 U.S.C. § 103(a).

-7-

001.1553184.1

Atty Dkt. No. 066243-0206 / (fka 070191-0237) (15-JS-5290)

Appln. No. 09/449,215

Applicants believe that the present application is now in condition for allowance.  
Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date January 09, 2004

FOLEY & LARDNER  
777 East Wisconsin Avenue, Suite 3800  
Milwaukee, Wisconsin 53202-5306  
Telephone: (414) 297-5730  
Facsimile: (414) 297-4900

By Alistair K. Chan

Alistair K. Chan  
Attorney for Applicants  
Registration No. 44,603